

1975 Bill 88
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 88

THE NATURAL GAS PRICE ADMINISTRATION ACT

THE MINISTER OF ENERGY AND NATURAL RESOURCES

First Reading

Second Reading

Third Reading

BILL 88

1975

(Second Session)

THE NATURAL GAS PRICE ADMINISTRATION ACT

(Assented to _____, 1975)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. (1) In this Act,
 - (a) "Alberta cost of service" with respect to any gas or the movement of any gas means the costs and charges, wherever incurred,
 - (i) that are attributable to the acquisition of the gas by the original buyer, except the contract field price or the regulated field price, whichever applies,
 - (ii) that are associated with the movement and metering of the gas in Alberta,
 - (iii) that are related to any processing required to cause the gas to become marketable gas or that are otherwise related to the supply of the gas, and
 - (iv) that consist of interest or other costs which, under a contract entered into prior to November 1, 1975, were recoverable by the original buyer from the price at which he sold the gas, or any portion of those costs or charges, as prescribed by or pursuant to the regulations;
 - (b) "Btu's" means British thermal units;
 - (c) "contract delivery point" means the point within Alberta at which delivery of gas is taken by the original buyer under a gas sales contract;
 - (d) "contract field price" means the price of gas under a gas sales contract, whether the price is specified in the contract or is redetermined pursuant to the contract by agreement or by arbitration or is fixed and determined by an order of the Public Utilities Board under *The Gas Utilities Act*;
 - (e) "designated officer" means an officer of the Department of Energy and Natural Resources or

Explanatory Notes

1. Interpretation.

any board, commission or other public body created by an Act of the Legislature or any member or employee thereof, designated by the Minister as the designated officer for the purposes of this Act;

- (f) "gas" means raw gas or marketable gas (as those expressions are defined in *The Oil and Gas Conservation Act*) that is produced, extracted or recovered in Alberta;
- (g) "gas sales contract" means a contract for the sale and delivery of gas within Alberta under which the producer of the gas is the seller;
- (h) "marketable gas" means marketable gas as defined in *The Oil and Gas Conservation Act*;
- (i) "Minister" means the Minister of Energy and Natural Resources;
- (j) "original buyer" means the buyer under a gas sales contract;
- (k) "price adjustment" with respect to any month means the amount determined by the Minister as the price adjustment for the month under an order made pursuant to section 4;
- (l) "producer" means the person who owns gas at the time it is first produced, extracted or recovered in Alberta;
- (m) the "regulated field price" of any gas means the regulated field price of the gas determined in accordance with section 9.

(2) For the purposes of this Act, all gas sold under a gas sales contract to an original buyer whose principal business is the transportation or sale or both of gas in interprovincial or international markets shall be deemed to be intended to be removed from Alberta regardless of where the gas is eventually consumed.

(3) For the purposes of this Act, in determining for any month the Alberta cost of service with respect to gas intended to be removed from Alberta, there shall be deducted an amount equal to the revenues received from the original buyer's sales of gas in Alberta in that month (other than gas delivered by him to the Minister and repurchased by him from the Minister pursuant to section 16) less the amount paid to the producers in respect of that gas.

(4) For the purposes of this Act,

- (a) where a producer delivers his gas to any person under an order of the Public Utilities Board made pursuant to *The Gas Utilities Act* requiring him to do so,
 - (i) the order of the Board shall be deemed to be a gas sales contract,

- (ii) the gas so delivered shall be deemed to be delivered under a gas sales contract,
 - (iii) the point at which the gas is delivered under the order shall be deemed to be the contract delivery point, and
 - (iv) the person to whom the gas is delivered shall be deemed to be the original buyer of the gas;
- (b) where the price of gas sold by the producer of the gas is a price fixed and determined by an order of the Public Utilities Board under *The Gas Utilities Act*, the price so fixed and determined shall be deemed to be the contract field price of the gas notwithstanding the existence of any gas sales contract that provides for the price of the gas.

2. For the purposes of this Act and any regulation or order under this Act, prices for gas, price adjustments and the Alberta cost of service or any kind of Alberta cost of service with respect to gas or the movement of gas shall be expressed in or converted to cents per million Btu's based on gross or higher heating value, upon such conditions as to the delivery of the gas as are specified in the gas sales contract for the gas, the contract relating to the movement of the gas or an order of the Minister under Part 2, as the case may be.

3. The Minister may delegate any of his powers and duties under this Act or the regulations to any officer of the Department of Energy and Natural Resources, any board, commission or other public body created by an Act of the Legislature or any member or employee thereof.

4. The Minister may by order determine for any month an amount as the price adjustment for that month for the purposes of this Act.

2. Manner of expressing prices of gas and costs of service.

3. Delegation of Minister's powers and duties.

4. Determination of monthly price adjustment.

5. (1) The Lieutenant Governor in Council may make regulations

- (a) for the purposes of section 1, clause (a);
- (b) providing for any matter relating to appeals to the Public Utilities Board under section 6;
- (c) exempting any class of gas sales contracts from the operation of section 9;
- (d) suspending the operation of any provisions of this Act indefinitely or for a stated period;
- (e) providing for any matter in connection with or incidental to the administration of this Act.

6. Any determination or estimation of any Alberta cost of service made under this Act or the regulations is subject to appeal to the Public Utilities Board in accordance with the regulations.

7. Any Alberta cost of service prescribed, determined or estimated pursuant to this Act or the regulations applies notwithstanding any order of the Public Utilities Board under *The Gas Utilities Act*.

5. Regulations.

6. Appeals re Alberta cost of service.

7. Overriding effect of determination of Alberta cost of service.

PART 1

REGULATION OF FIELD PRICES OF GAS

8. The purpose and intent of this Part is to provide for the regulation of prices paid for gas under gas sales contracts.

9. (1) The Minister may by order prescribe for any month the price of any gas

- (a) at the point of production, extraction or recovery of the gas, or
- (b) at the contract delivery point of the gas, or
- (c) at any other point in Alberta,

and the price so prescribed plus the price adjustment for the month is the regulated field price of the gas for the month at the point described in the order.

(2) Where an order of the Minister under subsection (1) prescribes a price for gas for any month at a point upstream from the contract delivery point of the gas,

- (a) the designated officer shall determine the Alberta cost of service with respect to the gas and the movement of the gas from the upstream point to the contract delivery point, and
- (b) the aggregate amount of the price prescribed by the Minister under subsection (1), the price adjustment for the month and the Alberta cost of service determined under clause (a) is the regulated field price of the gas for the month at the contract delivery point.

(3) Where an order of the Minister under subsection (1) prescribes the price of gas for any month at a point in Alberta downstream from the contract delivery point of the gas,

- (a) the designated officer shall determine the Alberta cost of service with respect to the gas and the movement of the gas from the contract delivery point to the downstream point, and
- (b) the aggregate amount of the price prescribed by the Minister under subsection (1) and the price adjustment for the month minus the Alberta cost of service determined under clause (a) is the regulated field price for the month at the contract delivery point.

10. (1) Where the contract field price of gas delivered in any month under a gas sales contract is different from the regulated field price of the gas for the month at the contract

8. Intent and purpose of Part 1.

9. Determination of regulated field price.

10. Regulated field price supersedes contract field price.

delivery point, the price of gas delivered under the contract during the month shall for all purposes be deemed to be the regulated field price for the month at the contract delivery point and not the contract field price.

(2) Where an original buyer is required to sell gas at the regulated field price by virtue of section 9 and this section,

- (a) the original buyer shall not, upon a resale of that gas within Alberta, include the price adjustment in the price of the gas on the resale or otherwise pass on the price adjustment to the buyer of the gas on the resale, but
- (b) the original buyer is entitled to be reimbursed for the price adjustment from moneys in the Natural Gas Price Administration Act Fund in accordance with the regulations under section 17.

11. The regulated field price at the contract delivery point determined with respect to any gas sales contract for any month applies with respect to that contract for that month notwithstanding

- (a) anything in the gas sales contract, or
- (b) any award under *The Arbitration Act* or any agreement that redetermines the price under a gas sales contract, or
- (c) any order of the Public Utilities Board under *The Gas Utilities Act*.

11. Overriding effect of price determination under section 9.

PART 2

ACQUISITION AND RESALE OF GAS

12. In this Part,

- (a) "Alberta border price" for any month means the amount determined under section 15 as the Alberta border price for the month;
- (b) "Canadian cost of service" with respect to any gas or the movement of any gas means the costs or charges of transmission and metering and all other costs associated with the movement of the gas outside Alberta, as determined by the National Energy Board;
- (c) the "international border price" of any gas means the price of that gas at the point it crosses the international boundary of Canada as specified in the licence of the National Energy Board authorizing the removal of that gas from Canada or as otherwise prescribed by the Government of Canada.

13. The purpose and intent of this Part is to provide legislative authority for the following:

- (a) the acquisition by the Minister of gas, the removal from gas so acquired of any constituent other than methane, and the resale of the gas so acquired;
- (b) the distribution to producers and original buyers on an equitable basis of net revenues accruing to the Crown under this Part.

14. (1) The Minister may on the basis of any regulated field price determine for any month an amount called the "Alberta border price" with respect to gas intended to be removed from Alberta

- (a) for consumption within Canada, and
 - (b) to be used as fuel in the transmission of Canadian gas back to Canada in any pipeline system in the United States.
- (2) The Alberta border price shall for all purposes be
- (a) the price to be imputed to all gas referred to in subsection (1) at the point at which the gas reaches an Alberta border, and
 - (b) the cost to be imputed to that gas at the point at which it crosses an Alberta border.

12. Definitions.

13. Intent and purpose of Part 2.

14. Alberta border price.

15. (1) The Minister may by order direct that any owner of gas in Alberta shall deliver that gas to the Minister at the point within Alberta prescribed in the order.

(2) Where gas is delivered to the Minister pursuant to an order under subsection (1), the gas becomes the property of the Crown in right of Alberta.

(3) Where any gas is delivered to the Minister pursuant to an order under subsection (1), the Minister shall compensate the person to whom the order is directed

(a) in the case of gas intended to be removed from Alberta, in an amount equal to the Alberta border price less the Alberta cost of service with respect to that gas and the movement of that gas from the delivery point prescribed in the Minister's order under subsection (1) to the point on the Alberta border at which the gas is or will be removed from Alberta, or

(b) in the case of gas intended for consumption within Alberta, in an amount equal to the lesser of

(i) the Alberta border price minus an amount estimated by the designated officer as an amount that would be the Alberta cost of service with respect to the gas and the movement of the gas from the delivery point prescribed in the Minister's order under subsection (1) to the point on the Alberta border specified by the designated officer if the gas were to be moved between those points and pipeline facilities were available for that purpose, and

(ii) the contract field price plus the Alberta cost of service with respect to the gas and the movement of the gas from the contract delivery point to the delivery point prescribed in the Minister's order under subsection (1).

(4) Where any gas is delivered to the Minister pursuant to an order under subsection (1), the Minister, on behalf of the Crown in right of Alberta, shall sell the gas, except for any constituent caused to be removed therefrom pursuant to section 16 and any gas used as fuel for the purpose of such removal, to the person to whom the order under subsection (1) was directed unless that person elects not to buy the gas in which case the Minister may sell the gas to any other person.

(5) Where the Minister sells gas pursuant to subsection (4), the price at which the gas shall be sold shall be

(a) in the case of

(i) gas sold for consumption within Canada, or

(ii) gas used in the transmission of Canadian gas back to Canada in any pipeline system in the

15. Compulsory purchase of gas by the Minister and resale.

United States for which the person to whom the Minister's order is directed under subsection (1) is charged in connection with such transmission,

the amount paid as compensation for the gas under subsection (3);

(b) in the case of gas sold for consumption outside Canada, except any gas referred to in clause (a), subclause (ii), the international border price less the sum of

(i) the Alberta cost of service with respect to the gas and the movement of the gas from the point at which the Minister delivers the gas to the purchaser to the point on the Alberta border at which the gas is or will be removed from Alberta, and

(ii) the Canadian cost of service with respect to the gas and the movement of the gas from the Alberta border to the point at which it crosses the international boundary of Canada.

(6) Except with respect to gas from which a constituent is removed pursuant to section 16, the point of delivery of gas sold by the Minister under this section shall be the delivery point prescribed in the order under subsection (1).

16. (1) Where the Crown in right of Alberta becomes the owner of any gas pursuant to section 15, the Minister, on behalf of the Crown in right of Alberta,

(a) may, subject to subsection (2), cause any constituent of the gas other than methane to be removed from the gas in Alberta;

(b) may enter into an agreement with any person for any purpose related to the removal of any constituent of gas pursuant to clause (a);

(c) may sell within Alberta any constituent of the gas removed pursuant to clause (a) to any person.

(2) The Minister shall not take any action under subsection (1), clause (a) unless the Lieutenant Governor in Council

(a) is satisfied that the constituent would not otherwise be removed from the gas within Alberta,

(b) declares that it is in the public interest that the constituent be removed from the gas, and

(c) approves the removal of the constituent from the gas by the Minister.

(3) There shall be a fund called the "Natural Gas Constituent Proceeds Fund (No. 2)" which shall be held and administered by the Minister.

16. Removal of constituents from gas by the Minister and distribution of the sale proceeds to producers.

- (4) The Minister shall keep a separate accounting record of the Fund.
- (5) The proceeds of the sale of any constituent sold pursuant to subsection (1), clause (c) shall be paid into the Fund.
- (6) The following shall be paid out of the Fund :
 - (a) any costs incurred by the Minister in connection with the removal of any constituent of gas pursuant to this section;
 - (b) moneys paid to producers pursuant to the regulations under subsection (7).
- (7) The Lieutenant Governor in Council may make regulations
 - (a) authorizing the Minister to make payments to the producers of the gas from which any constituent was removed pursuant to this section, from moneys in the Fund that are not from time to time required to pay any costs referred to in subsection (6), clause (a) ;
 - (b) prescribing the conditions on which the payments shall be made and the manner in which they shall be made;
 - (c) governing any other matter incidental to the making of payments under this section.
- (8) The regulations under subsection (7)
 - (a) shall, as far as practicable, provide for payments to producers on an equitable basis;
 - (b) may authorize the Minister or any other person to do any act in connection with the administration of the regulations;
 - (c) shall be administered in such a manner that the producers receive all the moneys in the Fund except for those moneys required to pay costs referred to in subsection (6), clause (a).
- (9) The Minister shall
 - (a) after the end of each fiscal year of the Government prepare a report summarizing the operation of the Fund for the preceding fiscal year and a financial statement showing the revenues of and expenditures from the Fund during the same fiscal year,
 - (b) submit the financial statement to the Provincial Auditor for auditing, and
 - (c) when the report for a fiscal year and the financial statement, as audited by the Provincial Auditor, are prepared, lay a copy of them before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

17. (1) There shall be a fund called the "Natural Gas Price Administration Act Fund" which shall be held and administered by the Minister.

(2) The Minister shall keep a separate accounting record of the Fund.

(3) The proceeds of the sale of gas received by the Minister pursuant to section 15 shall be paid into the Fund.

(4) The following shall be paid out of the Fund:

- (a) compensation payable by the Minister pursuant to section 15 with respect to gas delivered to him under that section;
- (b) any cost of service incurred by the Minister with respect to gas delivered to the Minister under section 15 and the movement of gas from the point of delivery to the Minister to the point of delivery to the purchaser of the gas from the Minister;
- (c) moneys paid to producers and original buyers pursuant to the regulations under subsection (5).

(5) The Lieutenant Governor in Council may make regulations

- (a) authorizing the Minister to make payments on a monthly basis from moneys in the Fund that are not from time to time required to pay any compensation or costs referred to in subsection (4), clauses (a) and (b), to
 - (i) eligible producers, and
 - (ii) eligible original buyers by way of reimbursement to those buyers for the price adjustments required to be paid by them by virtue of the operation of section 9;
- (b) prescribing the classes of producers and original buyers eligible to receive payments pursuant to clause (a);
- (c) prescribing the conditions on which the payments shall be made and the manner in which they shall be made;
- (d) governing any other matter incidental to the making of payments to producers and original buyers under this section.

(6) The regulations under subsection (5)

- (a) shall, as far as practicable, provide for payments to eligible producers and original buyers on an equitable basis;
- (b) may authorize the Minister or any other person to do any act in connection with the administration of the regulations;

17. The Natural Gas Marketing Fund and distribution to eligible producers and original buyers of profits realized from the sale of gas by the Minister.

- (c) shall be administered in such a manner that the eligible producers and eligible original buyers receive all of the moneys in the Fund except for those moneys required to pay for compensation or costs referred to in subsection (4), clauses (a) and (b).
- (7) The Minister shall
- (a) after the end of each fiscal year of the Government prepare a report summarizing the operation of the Fund for the preceding fiscal year and a financial statement showing the revenues of and expenditures from the Fund during the same fiscal year,
 - (b) submit the financial statement to the Provincial Auditor for auditing, and
 - (c) when the report for a fiscal year and the financial statement, as audited by the Provincial Auditor, are prepared, lay a copy of them before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

PART 3
AMENDMENTS TO THE NATURAL GAS PRICING
AGREEMENT ACT

18. *The Natural Gas Pricing Agreement Act is amended*

- (a) *as to section 1, subsection (1), clause (f) by striking out the words "or an agent of the Government of Alberta" and by substituting the words ", a board, commission or other public body created by an act of the Legislature or any member or employee thereof",*
- (b) *as to section 1, subsection (1), clause (f) by striking out the words "gas (as defined in The Oil and Gas Conservation Act)" and by substituting the words "raw gas or marketable gas (as those expressions are defined in The Oil and Gas Conservation Act)",*
- (c) *as to section 1 by adding after subsection (3) the following subsection:*
 - (4) For the purposes of this Act,
 - (a) where a supplier and producer delivers his gas to any person under an order of the Public Utilities Board made pursuant to *The Gas Utilities Act* requiring him to do so,
 - (i) the order of the Board shall be deemed to be a gas sales contract,
 - (ii) the gas so supplied and delivered shall be deemed to be delivered under a gas sales contract,
 - (iii) the point at which the gas is delivered under the order shall be deemed to be the contract delivery point, and
 - (iv) the person to whom the gas is delivered shall be deemed to be the original buyer of the gas;
 - (b) where the price of gas sold by the producer of the gas is a price fixed and determined by an order of the Public Utilities Board under *The Gas Utilities Act*, the price so fixed and determined shall be deemed to be the contract field price of the gas notwithstanding the existence of any gas sales contract that provides for the price of the gas.
- (d) *as to section 3, by striking out the words "or any agent of the Government of Alberta," and by substituting the words ", any board, commission or other public body created by an Act of the Legislature or any member or employee thereof",*
- (e) *as to section 10 by adding the following subsection after subsection (3):*

13. This section will amend chapter 38 of the Statutes of Alberta, 1975 (Second Session) enacted on November 25, 1975.

(a) Section 1(1)(f) presently reads:

(f) "designated officer" means an officer of the Department of Energy and Natural Resources or an agent of the Government of Alberta designated by the Minister as the designated officer for the purposes of this Act;

(b) Section 1(1)(h) presently reads:

(h) "gas" means gas (as defined in The Oil and Gas Conservation Act) that is produced, extracted or recovered in Alberta;

(c) The new subsection (4) being added to section 1 of the Act corresponds to section 1 (4) of this Bill. It is meant to take care of cases where there may not be a contract but rather an order under The Gas Utilities Act requiring a producer to supply gas. It also takes care of the case where the price of gas is fixed by a Public Utilities Board order, whether or not there is a contract dealing with quantities and specifications and any other matters except price.

(d) Section 3 presently reads:

3. The Minister may delegate any of his powers and duties under this Act or the regulations to any officer of the Department of Energy and Natural Resources or any agent of the Government of Alberta, except the power to enter into a federal-provincial agreement.

(e) The new subsection (4) is added to section 10 to ensure that the original buyer, while he cannot pass on the price adjustment to the next buyer, is nevertheless entitled to reimbursement from the Fund under section 16.

(f) Section 11(2) presently reads:

(2) Any provision in a gas sales contract that specifies the price of gas delivered thereunder and any award, agreement or order referred to in subsection (1), clause (b) or (c) is inoperative with respect to any month during which the regulated field price applies to the contract.

This subsection is removed largely as a consequence of the addition of subsection (4) of section 1 so that it will not render inoperative any pricing orders of the Public Utilities Board which in turn establish the "contract field price" in certain cases by virtue of s. 1(4). The subsection is removed also to prevent any conflict with s. 10(2)(b) of the Act. It is considered that s. 11(1) of the Act will by itself sufficiently indicate that regulated field prices prevail over any other prices.

(4) Where an original buyer is required to sell gas at the regulated field price by virtue of this section,

- (a) the original buyer shall not, upon a resale of that gas within Alberta, include the price adjustment in the price of the gas on the resale or otherwise pass on the price adjustment to the buyer of the gas on the resale, but
- (b) the original buyer is entitled to be reimbursed for the price adjustment from moneys in the Natural Gas Pricing Agreement Act Fund in accordance with the regulations under section 16.

(f) as to section 11 by striking out subsection (2).

PART 4

COMMENCEMENT

19. (1) This Act, except Part 3, comes into force on a date to be fixed by Proclamation.

(2) Part 3 comes into force on the date upon which this Act is assented to and upon coming into force shall be deemed to have been in force at all times on and after November 1, 1975.